



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2010-0847; FRL-9731-8]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Delaware; Control Technique Guidelines for Plastic Parts, Metal Furniture, Large  
Appliances, and Miscellaneous Metal Parts**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving revisions to the Delaware State Implementation Plan (SIP) submitted by the State of Delaware through the Delaware Department of Natural Resources and Environmental Control (DNREC). The revisions amend Delaware's regulation for the Control of Volatile Organic Compounds (VOC) for sources covered by EPA's Control Techniques Guidelines (CTG) standards for the following categories: Plastic Parts, Metal Furniture, Large Appliances, and Miscellaneous Metal Parts. EPA is approving this SIP revision to meet the requirements to implement reasonably available control technology (RACT) controls on emission sources covered by EPA's CTGs in accordance with the requirements of the Clean Air Act (CAA).

**EFFECTIVE DATE:** This final rule is effective on [insert date 30 days from date of publication].

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number **EPA-R03-OAR-2010-0847**. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the electronic docket, some information is not publicly available,

i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Gregory Becoat, (215) 814-2036, or by e-mail at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On July 13, 2012 (77 FR 41337), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the Delaware SIP revision that amends Regulation No. 1124, Control of Volatile Organic Compounds, sections 2.0 “Definitions,” 12.0 “Surface Coating of Plastic Parts,” 19.0 “Coating of Metal Furniture,” 20.0 “Coating of Large Appliances,” and 22.0 “Coating of Miscellaneous Metal Parts,” to incorporate the requirements of EPA’s CTGs. CTGs are documents issued by EPA that provide guidance to states concerning what types of controls could constitute RACT for VOC from various sources, including the coating of plastic parts, metal furniture, large appliances, and miscellaneous metal parts. EPA requires all ozone nonattainment areas to update regulations for emission sources covered in an

EPA CTG and to submit the regulations to EPA for approval as SIP revisions. These amendments will reduce the VOC content of currently regulated coatings, regulate additional coating categories, require the use of coating application equipment that provides for high transfer efficiency, and require that clean-up solvent emissions be included in regulatory applicability determinations. EPA received no comments on the NPR to approve Delaware's SIP revision. The formal SIP revision was submitted by the State of Delaware on April 1, 2010 and March 9, 2012.

## **II. Summary of SIP Revision**

The SIP revision consists of the following revisions to Delaware's Regulation No. 1124: (1) amendments to section 2.0 - Definitions, which adds definitions; (2) amendments to section 12.0 - Surface Coating of Plastic Parts, which establishes applicability for every owner or operator of any plastic parts or products coating units, adds, revises, and deletes definitions, specifies standards and exemptions, and specifies control devices, test methods, compliance certification, recordkeeping, and reporting requirements; (3) amendments to section 19.0 - Coating of Metal Furniture, which establishes applicability to every owner or operator of any metal furniture coating unit, revises a definition, specifies standards and exemptions, and specifies control devices, test methods, compliance certification, recordkeeping, and reporting requirements; (4) amendments to section 20.0 - Coating of Large Appliances, which establishes applicability to every owner or operator of any large appliance coating unit, revises a definition, specifies standards and exemptions, and specifies control devices, test methods, compliance certification, recordkeeping, and reporting requirements; and (5) amendments to section 22.0 -

Coating of Miscellaneous Metal Parts, which establishes applicability to every owner or operator of any miscellaneous metal parts and products coating unit, adds, revises, and deletes definitions, specifies standards and exemptions, and specifies control devices, test methods, compliance certification, recordkeeping, and reporting requirements. Other specific requirements and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

### **III. Final Action**

EPA is approving as a revision to the Delaware SIP the revisions to 7 DE Administrative Code 1124, sections 2.0, 12.0, 19.0, 20.0, and 22.0 for the control of VOC emissions from plastic parts, metal furniture, large appliances, and miscellaneous metal parts. This SIP revision meets the requirements to implement RACT controls on emission sources.

### **IV. Statutory and Executive Order Reviews**

#### **A. General Requirements**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal

governments or preempt tribal law.

## **B. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

## **C. Petitions for Judicial Review**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action approving Delaware’s control of VOCs from plastic parts, metal furniture, large appliances, and miscellaneous metal parts may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2012.

Shawn M. Garvin,  
Regional Administrator,  
Region III.

40 CFR part 52 is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart I-- Delaware

2. In § 52.420, the table in paragraph (c) is amended by revising the entries for Regulation 1124, sections 2.0, 12.0, 19.0, 20.0, and 22.0 to read as follows:

§ 52.420                      Identification of plan.

\*                      \*                      \*                      \*                      \*

(c) \* \* \*

**EPA-APPROVED REGULATIONS IN THE DELAWARE SIP**

<b>State regulation (7 DNREC 1100)</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Additional explanation</b>
*                      *	*                      *	*                      *	*                      *	
<b>1124</b>	<b>Control of Volatile Organic Compound Emissions</b>			
*                      *	*                      *	*                      *	*                      *	
Section 2.0	Definitions	4/11/10	<u>[Insert Federal Register publication date] [Insert page number where the document begins]</u>	Amended to add definitions.
*                      *	*                      *	*                      *	*                      *	
Section 12.0	Surface Coating of Plastic Parts	10/11/11	<u>[Insert Federal Register publication date] [Insert page number where the document begins]</u>	
*                      *	*                      *	*                      *	*                      *	
Section 19.0	Coating of Metal Furniture	10/11/11	<u>[Insert Federal Register publication date] [Insert page number where the document begins]</u>	
Section 20.0	Coating of Large Appliances	10/11/11	<u>[Insert Federal Register publication date] [Insert page number where the document begins]</u>	
*                      *	*                      *	*                      *	*                      *	
Section 22.0	Coating of Miscellaneous Metal Parts	10/11/11	<u>[Insert Federal Register publication date] [Insert page number where the document begins]</u>	
*                      *	*                      *	*                      *	*                      *	



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[FR Doc. 2012-23495 Filed 09/24/2012 at 8:45 am; Publication Date: 09/25/2012]